

FINANCES

*Executive agreement and exchange of notes signed at Port-au-Prince
September 13, 1941; exchange of notes at Port-au-Prince Septem-
ber 30, and October 1, 1941*

Entered into force October 1, 1941

Terminated October 1, 1947, upon fulfillment of its terms

55 Stat. 1348; Executive Agreement Series 220

EXECUTIVE AGREEMENT TO REPLACE THE ACCORD OF AUGUST 7, 1933

Whereas the Government of the United States of America and the Government of the Republic of Haiti are both desirous of maintaining the friendly relations existing between the two countries and to that end of concluding an agreement establishing those relations upon a firm basis of mutual understanding and cooperation, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have agreed upon the following Articles:

ARTICLE I

On the date on which the present agreement enters into effect, the offices of Fiscal Representative and Deputy Fiscal Representative, as provided for in Article VII of the Accord of August 7, 1933¹ shall be abolished.

All property and funds belonging to or in the custody of the Fiscal Representative or Deputy Fiscal Representative shall on that day be transferred to the National Bank of the Republic of Haiti as depository for the Government of the Republic of Haiti.

No claims shall be advanced by either Government against the other Government on account of any act of the Fiscal Representative, the Deputy Fiscal Representative or any of their employees.

ARTICLE II

The National Bank of the Republic of Haiti shall have fiscal functions as defined in this agreement, as well as the usual commercial operations of a national bank, and shall be the sole depository of all revenues and public funds of whatsoever nature of the Government of Haiti. These funds shall consist of revenues, customs, duties, excises, fees, fines, imposts, charges, levies

¹ EAS 46, *ante*, p. 704.

or any other kind of income, receipts or funds which belong to and are under the control of the national Government of the Republic of Haiti. It is understood that these revenues and public funds will include funds under the control of the Government of Haiti which, under existing laws, and those which may be made in future, are collected or expended on behalf of the Haitian communes; a separate account of revenues and expenditures shall be kept for each commune by the National Bank of the Republic of Haiti.

The assets of the National Bank of the Republic of Haiti shall not be alienated nor shall its investments be disposed of except with the approval of the Board of Directors.

The Bank shall have all administrative powers necessary to carry out its functions under this agreement.

ARTICLE III

The National Bank of the Republic of Haiti shall be reorganized with a Board of Directors consisting of an Honorary President and six voting members. The Haitian Minister of Finance or, in his absence, the Acting Minister of Finance, shall be ex officio the Honorary President. Three of the voting members are always to be citizens of the Republic of Haiti. The other three voting members are always to be citizens of the United States of America. Decisions of the Board of Directors shall require a majority vote of the voting members of the Board. The President of the Republic of Haiti shall appoint the Haitian members of the Board of Directors; the citizens of the United States of America who are members of the Board shall be chosen by mutual agreement of the two Governments. All of the voting members of the Board shall hold office for a period of five years and shall not be removed except for cause. Vacancies on the Board of Directors shall be filled in the same manner as the original appointments.

There shall be two co-Presidents of the Board of Directors of the Bank. One of these, the Haitian Minister of Finance, shall act as Honorary President, as indicated above, and shall preside over the meetings of the Board of Directors, and may be one of the three Haitian voting members. The other Co-President shall be one of the three citizens of the United States of America. It shall be his duty to represent the holders of the bonds of 1922 and 1923 and to coordinate and direct the functions and activities of the two Vice Presidents, who shall be elected by the Board of Directors of the Bank, and who may be members of the Board. One of the Vice Presidents shall be charged with supervising and carrying out the commercial operations of the Bank, and the other shall be charged with supervising and carrying out the fiscal functions of the Bank, under the immediate direction of the President who shall be responsible for such work.

Any voting member of the Board of Directors of the Bank who is unable to attend a meeting of the Board may give a proxy to any other member of the Board of Directors.

The Board of Directors shall exercise with respect to the fiscal functions of the Bank the powers hereinafter set forth. The fiscal functions of the Bank shall be undertaken by a Fiscal Department to be operated in accordance with the regulations issued by the Board of Directors pursuant to such powers.

The Board of Directors shall continue to exercise with respect to all other functions of the Bank the powers set forth in the charter and by-laws of the Bank.

ARTICLE IV

The Board of Directors of the National Bank of the Republic of Haiti shall be charged with the responsibility for:

(a) the formulation of the Haitian budget in the manner described in Article V of this agreement, and in accordance with the existing budgetary laws of the Republic of Haiti, which are to remain in effect except so far as they are modified to conform with this agreement;

(b) the accounting for and disbursing of the funds of the Government of Haiti;

(c) the collection of all customs revenues;

(d) the supervision and inspection of the collection of all revenues as defined in Article II, other than customs revenues;

(e) establishing the regulations and the administration, under such legislation as may be necessary, for the handling of the revenues of the various communes. These regulations or laws shall authorize the collection of communal revenues by the regular internal revenue collectors; disbursements on behalf of the communes shall be made by the National Bank of the Republic of Haiti; the budgets of revenues and expenditures of the communes shall be prepared and approved by the Government of the Republic of Haiti in agreement with the National Bank of the Republic of Haiti; the municipal services performed by, or in behalf of the communes, shall be paid, so far as it is possible, from the communal revenues.

ARTICLE V

Each year, as soon after January 1 as may be practicable but not later than March 1, the Haitian budget of income and expenditures shall be presented to the Legislature of the Republic by the Government of the Republic. Such budget shall be prepared cooperatively by the Government of the Republic and by the National Bank of the Republic of Haiti as follows:

(a) the Board of Directors of the National Bank shall estimate the expected revenues; shall estimate the global expenditures which can be anticipated to be made within the revenues available; shall suggest limits within which the various ministries, including the Garde d'Haiti, shall operate, and shall fix by agreement with the Government of Haiti the expenditures which are necessary for the operation of the Bank in its fiscal functions; and

(b) the Government of the Republic shall estimate in detail the expenditures envisaged for each of the various ministries, including the Garde d'Haiti, within the limits suggested by the Board of Directors of the National Bank.

ARTICLE VI

The National Bank of the Republic of Haiti, as the sole depository of all revenues as defined in Article II, shall have the power and duty of receiving in the first instance all the receipts of the Government and all payments made in favor thereof, and to set aside in preference to any other expenses the sums necessary for the service of the 1922 and 1923 bonds, and, as the duly constituted agent of the Government, to make all the payments required by the loan contracts.

During the first ten days of each calendar month the representative of the holders of the bonds of 1922 and 1923 who shall be, in accordance with Article III, a member of the Board of Directors of the National Bank of the Republic of Haiti, shall receive from the said Bank the sums necessary to cover monthly payments as follows:

(1) The payment of $\frac{1}{12}$ of the annual interest charges of all the outstanding bonds of the external debt of 1922 and 1923;

(2) The payment of $\frac{1}{12}$ of the annual amounts designated for the amortization of said bonds, including the interest of all the bonds which are or may be retained in the sinking fund.

The annual interest charges and the amounts of amortization shall be computed and effected in accordance with the loan contracts dated October 6, 1922, and May 26, 1925, with the National City Company and the National City Bank of New York, authorized by the Haitian Law of June 26, 1922, as modified by the Accord signed at Port-au-Prince by the representatives of the Governments of the United States of America and the Republic of Haiti on August 7, 1933, and as further modified by the agreements signed on January 13, 1938,² July 1, 1938,³ July 8, 1939,⁴ September 27, 1940⁵ and February 13, 1941.⁶

No disbursement of funds of the Government of Haiti shall be made by the National Bank of the Republic of Haiti until an allotment has been made to satisfy the above provisions and, in addition, to make the payment of $\frac{1}{12}$ of the annual amount agreed upon between the Government of Haiti and the National Bank of the Republic of Haiti as compensation for the services of the said Bank, or in the absence of any such agreement, $\frac{1}{12}$ of the annual amount last agreed upon. After setting aside those funds which are con-

² EAS 117, *ante*, p. 721.

³ EAS 128, *ante*, p. 722.

⁴ EAS 150, *ante*, p. 723.

⁵ EAS 183, *ante*, p. 725.

⁶ EAS 201, *ante*, p. 727.

sidered necessary by the Board of Directors of the National Bank of the Republic of Haiti to establish appropriate reserves during a given fiscal year in anticipation of seasonal variations in revenues and expenditures, to make the payments envisaged in Articles VI and VIII hereof, and for other similar purposes, any surplus funds will be held at the disposal of the Government of Haiti for necessary public expenditures in accordance with the approved budget.

ARTICLE VII

The Government of the Republic of Haiti declares that the interest and amortization service of the bonds of the external debt of 1922 and 1923 constitute an irrevocable first lien upon all its revenues as defined in Article II. It is understood that the communal revenues specified in Article 2 [II] shall not be included in the provision of this clause.

Until the complete amortization of the whole amount of the bonds of the external debt of 1922 and 1923 of the Government of Haiti, the public debt of the Republic of Haiti shall not be increased except by previous agreement between the Governments of the United States of America and the Republic of Haiti.

ARTICLE VIII

In case the total collections of all the revenues as defined in Article II, exclusive of communal revenues, should in any fiscal year exceed the equivalent of \$7,000.000 in currency of the United States of America, there shall be applied to the sinking fund for the redemption of bonds of the external debt of 1922 and 1923, 10 per cent of the excess above \$7,000,000 but less than \$8.000.000 and in addition 5 percent of all sums exceeding \$8.000.000.

ARTICLE IX

The system of deposit and disbursing of all revenues, as defined in Article II, of the Government of Haiti shall be carried out in accordance with Haitian laws relating to accounting methods and financial regulations now governing such matters which shall not be modified during the life of this agreement without the previous consent of both Governments.

The Government of Haiti agrees to enact and to maintain in effect the legislation and executive and administrative regulations necessary to put this and other articles of the present agreement into effect.

ARTICLE X

Any controversy which may arise between the Government of the United States of America and the Government of Haiti in relation to the interpretation or execution of the provisions of the present agreement shall, if possible, be settled through diplomatic channels. Upon notification by either the Government of the United States of America or the Government of Haiti that, in its opinion, possibilities of settlement by this means have been ex-

hausted, such controversies shall be settled in accordance with the procedure stipulated in the Inter-American Arbitration Convention signed at Washington January 5, 1929,⁷ notwithstanding the provisions of Article 2 (a) thereof.

ARTICLE XI

The Accord signed by representatives of the Governments of the United States of America and the Republic of Haiti on August 7, 1933, shall cease to have effect when the present agreement shall enter into force, provided, however, that the Accord of August 7, 1933 shall continue in full force and effect until the two Governments agree that there have been adopted and put into operation the measures necessary for the execution of the present agreement.

The present agreement shall continue in full force and effect during the existence of the outstanding external bonds of 1922 and 1923. After the redemption of the said bonds, the provisions of this agreement shall automatically cease to have effect.

In witness whereof the respective Plenipotentiaries have signed at Port-au-Prince the present agreement in duplicate in the English and French languages, both texts being equally authoritative, and have hereunto affixed their seals.

Done in the City of Port-au-Prince the 13th day of September nineteen hundred and forty-one.

For the Government of the United States of America:

J. C. WHITE [SEAL]
*Envoy Extraordinary and Minister
 Plenipotentiary of the United States
 of America to the Republic of Haiti*

For the Government of Haiti:

FOMBRUN [SEAL]
*Ministre des Relations Extérieures de
 la République d'Haiti*

EXCHANGES OF NOTES

The American Minister to the Haitian Secretary of State for Foreign Affairs

PORT-AU-PRINCE, September 13th, 1941

EXCELLENCY:

I have the honor to refer, under instructions from my Government, to the Agreement between the United States of America and the Republic of Haiti signed today and to confirm to you the understanding of my Gov-

⁷ TS 886, *ante*, vol. 2, p. 737.

ernment with regard to the United States members of the Board of Directors of the National Bank of the Republic of Haiti and their compensation in the following terms:

The 3 voting members of the Board of Directors of the National Bank of the Republic of Haiti, who shall be citizens of the United States, and who are to be appointed by mutual agreement of the two Governments, shall be as follows:

W. H. Williams, who shall be co-President of the Board and whose duty it shall be to represent the holders of the bonds of 1922 and 1923, and to coordinate and direct the functions and activities of the two Vice Presidents.

Thomas Pearson

Edward F. Roosevelt

The compensation to be paid to each of the voting members of the Board of Directors for their duties as members of the Board of Directors of the National Bank of the Republic of Haiti shall not exceed the sum of (\$300) Three Hundred United States dollars per month.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

J. C. WHITE

His Excellency

Mr. CHARLES FOMBRUN,
Secretary of State for Foreign Affairs,
Port-au-Prince.

The Secretary of State for Foreign Affairs to the American Minister

[TRANSLATION]

SIR:

I have the honor to refer to the Agreement between the Republic of Haiti and the United States of America, signed today, and to acknowledge your note of today's date confirming to me the understanding of your Government with regard to the United States members of the Board of Directors of the National Bank of the Republic of Haiti and their compensation in the following terms:

[For terms of understanding, see U.S. note, above.]

Your statement of agreement in the above terms represents my understanding of the arrangement and is satisfactory to the Government of the Republic of Haiti.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

FOMBRUN

His Excellency

Mr. JOHN CAMPBELL WHITE,
*E.E. & Plenipotentiary Minister
of the United States of America,
Port-au-Prince.*

The Secretary of State for Foreign Affairs to the American Minister

[TRANSLATION]

REPUBLIC OF HAITI

DEPARTMENT OF STATE
FOR FOREIGN AFFAIRS

PORT-AU-PRINCE, *September 30, 1941*

MR. MINISTER,

Following instructions of my Government, I have the honor to inform Your Excellency that with respect to the provisions of the first paragraph of article XI of the Executive agreement signed at Port-au-Prince September 13, 1941 by the representatives of the Government of the Republic of Haiti and of the Government of the United States of America, in view of the measures adopted by my Government, namely, two decree-laws under date of September 29, 1941, the first amending the law on finances and the second relative to the budget of receipts and expenditures of the communes of the Republic, and in view of the provisions adopted by the board of directors of the National Bank of the Republic of Haiti for the amendment of the regulations of that institution, the Haitian Government hereby declares that, for its part, it recognizes that all measures necessary for the execution of the agreement in question, the Executive agreement of September 13, 1941, have been adopted and applied.

While requesting Your Excellency to advise me of the conformity of your Government, I take this occasion to renew to you the assurance of my high consideration.

FOMBRUN

His Excellency

JOHN CAMPBELL WHITE,
*E.E. and Minister Plenipotentiary
of the United States of America,
Port-au-Prince.*

The American Minister to the Secretary of State for Foreign Affairs

LEGATION OF THE
UNITED STATES OF AMERICA
PORT-AU-PRINCE, HAITI

October 1, 1941, 4 p.m.

No. 188

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's communication of September 30, 1941, with reference to the provisions of the first paragraph of Article XI of the Executive Agreement signed in the City of Port-au-Prince on September 13, 1941, by representatives of the Government of the United States of America and of the Republic of Haiti.

In view of Your Excellency's statement regarding the measures adopted by the Haitian Government and the action taken by the Board of Directors of the National Bank of the Republic of Haiti mentioned in your note of September 30, I am authorized by my Government to inform you that the United States of America agrees that all of the necessary measures for the execution of the above mentioned Executive Agreement of September 13, 1941, have been adopted and put into operation.

Accept, Excellency, the renewed assurance of my high consideration.

J. C. WHITE

His Excellency

M. CHARLES FOMBRUN,

*Secretary of State for Foreign Affairs,
Port-au-Prince, Haiti.*